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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,686	11/10/2003	Leif N. Bowman	047711-0331	4638
23392	7590	03/23/2006	EXAMINER	
FOLEY & LARDNER 2029 CENTURY PARK EAST SUITE 3500 LOS ANGELES, CA 90067			STIGELL, THEODORE J	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/705,686	Applicant(s) BOWMAN ET AL.	
	Examiner Theodore J. Stigell	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16, 19-28, 31-33 and 37-40 is/are allowed.
- 6) ☒ Claim(s) 17, 18, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 34-36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Specification

The amendments to the Specification have been acknowledged and accepted.

Claim Objections

The objections to claims 24-28 have been withdrawn in light of the amendments to the Specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-18 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner if the "second member" recited in claims 17-18 is a different structure than the "at least one stop" recited in the independent claim. It is the position of the Examiner that they are the same structure and therefore should be referenced by the same phrase. In regards to claim 30, it is unclear if the "stop" recited in claim 29 is the same "stop" as recite in claim 30.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3763

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischell (5,545,143). See Figures 10-17 and the respective portions of the specification. Fischell discloses an infusion set comprising a base (210) for providing an infusion path, a cannula (227) connected to and extending away from the base, a connector (240) removably attachable to the base in any one of at least two different connection positions (First position is shown in Figure 13 and the second position could be if the connector was detached from the base, rotated 180 degrees and then reattached), said connector capable of being rotated a few degrees on the base in either direction without breaking the device, each connection position allowing for different possible relative orientations of the connector with the base when the connector is rotated on the base, and a tubing (243) affixed to the connector wherein the connector comprises at least one stop (246) for inhibiting rotation of the connector beyond 360 degrees and wherein the base comprises at least two barriers (202) that are spaced apart from each around a circumference of the base and wherein the stop engages the barriers to prevent rotation.

Allowable Subject Matter

Claims 1-16, 19-28, 31-33, and 37-40 are allowed.

Claims 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 2/28/2006 with respect to claim 29 have been fully considered but they are not persuasive. The Examiner is no longer relying on the breaking of the Fischell device to meet all of the limitations because claim 29 does not recite a range of rotation. The connector can rotate if enough pressure is put on it and do so without breaking, and since the rotation will only be a few degrees the limitation of the "inhibiting rotation of the connector beyond 360" is certainly met also.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Theodore J. Stigell


